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MAILED
OCT 27 2010
OFFICE OF PETITIONS

In re Application of :
David A. Brown :
Application No. 09/886,659 :
Filed: June 21, 2001 :
Attorney Docket No. 42923/905 :
DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 12, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on October 12, 2010. However, it is unclear whether PCT/CA2000/001444 or Chinese Patent Application No. 200810149123.6 triggered the 45-day period to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). Further, petitioner has not provided the filing date of the foreign application PCT/CA2000/001444 in the petition submitted. Before a proper determination on the merits of the petition can be decided, petitioner must clearly identify the application and filing date of the foreign application to be considered under 37 CFR 1.137(b).

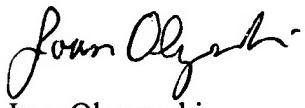
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By fax: (571) 273-8300
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Telephone inquiries concerning this decision should be directed to the undersigned at
(571) 272-7751.


Joan Olszewski
Petitions Examiner
Office of Petitions